

SECOND DECLARATION OF MICHAEL CRAMER

I, Michael Cramer, declare as follows:

1. I am the CEO of Adagio Teas, Inc. (“Adagio”). I have held this position since at least 2010.

2. My job responsibilities include overseeing the development and maintenance of Adagio’s website, www.adagio.com (the “Website”), including the creation of policies and procedures to ensure that the Website is accessible to blind and visually impaired users.

3. Adagio has invested significant resources to permit its Website to be accessed via screen reader technology in accordance with the Web Content Accessibility Guidelines 2.1 (“WCAG 2.1”).

4. The Website, including its home, category, product, shopping cart and checkout pages are periodically tested for accessibility and compliance with WCAG 2.1 using aCe, an artificial intelligence accessibility tool developed by Accesibe, a technology company based in Tel Aviv, Israel.

5. The testing that we performed on our home, category, product and checkout pages both before and after August 25, 2020 confirmed our compliance with the WCAG 2.1 accessibility guidelines.

6. After receiving a copy of Josue Romero’s initial Complaint alleging he was unable to access the Website, I reviewed the accessibility functions of the Website with Adagio’s information technology team and an outside accessibility consultant. I confirmed that none of the programming errors alleged in Mr. Romero’s complaint could have impeded his access to the Website.

7. I also discovered that Mr. Romero successfully browsed the Website. Using the Internet Protocol (“IP”) address provided by Mr. Romero, I was able to confirm that Mr. Romero accessed the Website on August 25, 2020.

8. An IP address is a unique identifier associated with a device that accesses the internet. Using the IP address, a website administrator can monitor the dates and times that a particular device accessed individual pages on a website by referring to “log files” – essentially, records of activity on the website – associated with that IP address.

9. According to the log files associated with Mr. Romero’s device, Mr. Romero accessed multiple pages on the Website on August 25, 2020. He entered the home page at 7:04 pm, and browsed several product pages, including pages for teaware, matcha, and herbal teas. He added three items to his shopping cart but did not attempt to complete a purchase. At 7:12 p.m, he left the Website.

10. The log files confirm that Mr. Romero was able to successfully navigate the Website and add items to his cart. The log files do not show that Mr. Romero received any error messages, or that he attempted to access the “help” link which appears on every page of the Website.

11. I understand that Mr. Romero alleges he had difficulties using the “shopping cart” feature of the Website and accessing certain product information. Visitors who are new to the Website, including those with perfect vision, will occasionally experience problems with site functionality. Adagio typically responds to 50 customers seeking help with the Website in a given week.

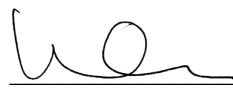
12. I also understand that Mr. Romero alleges he was unable to access a \$5 off coupon when he visited the Website. I confirmed this coupon was screen reader accessible after receiving Mr. Romero’s initial Complaint. This coupon is purposely not available to all visitors. Rather, the display of the coupon is triggered by site user’s activity on the Website. The log files of Mr. Romero’s August 25, 2020 visit suggest that his on-site behavior would not have triggered the coupon.

13. After receiving a copy of the First Amended Complaint, I conducted a public

records search for other lawsuits filed by Mr. Romero and learned that he filed 107 lawsuits (including the original Complaint) in the Southern District of New York between September 3 and December 31, 2021. A list of those lawsuits is attached hereto as Exhibit A.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 5th day of February 2021 in Elmwood Park, New Jersey



Michael Cramer